

JUL 30 2013

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J.C. and E.C., minors

CASE FILED FOR JUDICIAL CONFERENCE

Hearing Date: 12-02-13  
Time: 8:30am  
Courtroom: 2

SUPERIOR COURT OF CALIFORNIA

COUNTY OF TULARE (UNLIMITED CIVIL)

J.C. and E.C., minors, by and through their  
Guardian ad Litem C.C.

Plaintiffs,

vs.

VISALIA UNIFIED SCHOOL DISTRICT;  
ANTONIO CORDOVA; and DOES 1 to 25,  
inclusive,

Defendants.

Case No. **252880**

COMPLAINT FOR DAMAGES

1. GENERAL NEGLIGENCE
2. NEGLIGENT HIRING,  
SUPERVISION, RETENTION,  
TRAINING AND INVESTIGATION
3. NEGLIGENCE PER SE
4. SEXUAL BATTERY
5. SEXUAL MISCONDUCT/SEXUAL  
HARASSMENT

COMES NOW, Plaintiffs, J.C. and E.C., minors, by and through their Guardian ad Litem C.C,  
and allege as follows:

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

1. Plaintiff, J.C. is a minor, by and through her Guardian ad Litem C.C., (hereinafter referred to as "PLAINTIFF" or "J.C."), hereby alleges that she is a minor, born on 12/27/02 (10 years old). She is/was, at all times relevant herein, a resident of the County of Tulare, State of California. J.C. further alleges that, at all times relevant herein, she was a student in the Visalia Unified School District (hereinafter referred to as "DISTRICT"). Specifically, at all times relevant herein, J.C. was a student at the Oak Grove Elementary campus, located within the DISTRICT.

2. Plaintiff, E.C. is a minor, by and through her Guardian ad Litem C.C., (hereinafter referred to as "PLAINTIFF" or "E.C."), hereby alleges that she is a minor, born on 4/23/04 (9 years old). She is/was, at all times relevant herein, a resident of the County of Tulare, State of California. E.C. further alleges that, at all times relevant herein, she was a student in the Visalia Unified School District

(hereinafter referred to as "DISTRICT"). Specifically, at all times relevant herein, E.C. was a student at the Oak Grove Elementary campus, located within the DISTRICT.

3. PLAINTIFFS herein allege that Defendant, DISTRICT, was, at all times relevant herein, a public entity licensed to do business, and doing business in the City of Visalia, County of Tulare, State of California.

4. PLAINTIFFS herein allege that the Oak Grove Elementary School campus (hereinafter referred to as the "SCHOOL"), was, at all times relevant herein, a school in the DISTRICT.

5. PLAINTIFFS herein allege that Defendant, ANTONIO CORDOVA (hereinafter referred to as "CORDOVA"), was, at all times relevant herein, a competent adult and a resident in the County of Tulare, State of California. PLAINTIFF further alleges that, at all times relevant herein, CORDOVA was employed as a janitor/custodian by the DISTRICT. Specifically, CORDOVA was, at all times relevant herein, employed at the SCHOOL, and had daily access to J.C. and E.C. when the acts alleged herein occurred. CORDOVA was, at all times, acting within the course and scope of his employment with DISTRICT. Based upon information and belief, CORDOVA was employed by the district to work at the SCHOOL in 2008.

6. The true names and capacities, whether individual, public entity, associate, or otherwise, of Defendants named herein as DOES 1 through 25, inclusive, who are unknown to PLAINTIFFS, who therefore sues said Defendants by such fictitious names. PLAINTIFFS will amend this Complaint to show their true names and capacities when the same has been ascertained.

7. PLAINTIFFS are informed and believe and, upon such information and belief, allege that each of the Defendants designated herein as DOE is legally responsible in some manner for the events and happenings referred to, and proximately caused the damages to PLAINTIFFS, as herein alleged.

8. PLAINTIFFS are informed and believe and, upon such information and belief, allege that Defendants, and each of them, were the agents and/or employees of each of the remaining Defendants, and were acting within the scope and course of said employment, and/or such agency, in performance of the acts herein alleged.

9. Prior to February 26, 2013, CORDOVA, on numerous occasions, sexually abused and molested J.C. and E.C., during school hours and on the campus of the SCHOOL, where the PLAINTIFFS

attended. The sexual abuse of J.C. and E.C. included, but is not limited to, CORDOVA engaging in the following conduct:

- A. CORDOVA would have PLAINTIFFS stick their hands into his pocket and told them to feel around for a "screwdriver", wherein the PLAINTIFFS would feel CORDOVA'S erect penis.
- B. CORDOVA would unzip his pants and expose the flesh of his penis to the PLAINTIFFS through the opening.
- C. CORDOVA would have PLAINTIFFS hold onto the front of his legs, while he stood on a chair so as to raise himself to a level that his crotch was directly in the PLAINTIFFS' face. PLAINTIFFS could feel CORDOVA'S erect penis on their face.
- D. CORDOVA would touch, grab, caress and/or grope each of the PLAINTIFFS' vaginas with his hands.
- E. CORDOVA would touch, grab, caress and/or grope each of the PLAINTIFFS' chest/breast area with his hands.
- F. CORDOVA would have the PLAINTIFFS bend over a cage to reach in and grab playground equipment. While doing so, CORDOVA would approach from behind and rub his erect penis on their buttocks.

10. Each of the incidents of sexual abuse of the PLAINTIFFS (including but not limited to the above) occurred on the SCHOOL campus, during normal SCHOOL hours (including but not limited to breakfast time, lunch time and recess). The sexual abuse would typically occur behind closed and/or locked doors of either the 1) lost/found janitors closet located in the cafeteria, or 2) the janitors supply room.

11. In addition to J.C. and E.C., based upon information and belief there are ten (10) other female student/children that are known to have been sexually abused in the same manner described above, at the hands of CORDOVA from 2011-2013, while at the SCHOOL campus, during normal SCHOOL hours.

12. The DISTRICT and its employees over the past five (5) years have fostered, maintained and allowed an environment for its students to fall victim to sexual abuse at the hands of CORDOVA. The DISTRICT and specifically SCHOOL employees and administration knew that CORDOVA had children enter CORDOVA'S work area alone. Further yet, CORDOVA'S "closets", where the many acts of childhood sexual abuse would occur, was closed off and was unable to be supervised by the SCHOOL staff and administration. Nonetheless, the SCHOOL administration and staff

1 allowed this behavior and conduct to occur, even after they had been specifically notified and warned on  
2 multiple occasions of CORDOVA'S suspicious behavior, for years before the abuse had occurred  
3 involving PLAINTIFFS. These warnings, notice and red flags include, but are not limited to the  
4 following:

- 5 A. Scott Wahab (SCHOOL principal from 2004-2011) was contacted in 2010 by a  
6 student's concerned parent that notified Wahab his child was going into  
7 CORDOVA'S closet alone. Wahab contacted CORDOVA and instructed him that  
8 having children alone with him looked bad and did not want that to happen again.
- 9 B. In the **Spring of 2011**, Paula Sbardella (teacher at SCHOOL), heard about and  
10 saw student(s) enter CORDOVA'S janitor's closet alone. Due to the  
11 inappropriateness and concern this conduct raised, Sbardella notified Wahab of  
12 the situation. Both Sbardella and Wahab addressed the conduct with CORDOVA  
13 and informed him again not to have children with him alone.
- 14 C. In **October 2011**, John Davis (SCHOOL principal from 2011-present) was  
15 contacted by a female teacher who expressed concerns about children being  
16 allowed to go into the janitor's closet alone with CORDOVA. Davis then called  
17 the prior principal Wahab, who confirmed the ongoing and repeated problems he  
18 had with CORDOVA being alone with children in his janitor's closet with the  
19 door shut. Davis instructed CORDOVA not to be alone with children in the  
20 janitor's closets and also remove all "lost and found" items and the "ball pump"  
21 from his closet.
- 22 D. In the **2011-2012 school year**, John Davis was contacted by a student's parent  
23 who expressed concerned of inappropriate conduct and behavior by CORDOVA  
24 towards his child. The parent told Davis that CORDOVA would give his child  
25 items/gifts and be alone with CORDOVA.

13. Despite these warnings concerns and inappropriate behavior and conduct, CORDOVA at  
14 all times, remained employed in his regular capacity at the SCHOOL. At no time prior to February 25,  
15 2013, did the DISTRICT/SCHOOL perform any investigation or report to any authorities of  
16 CORDOVA'S indiscretions and/or suspicious behavior involving the children. Nor did the  
17 DISTRICT/SCHOOL perform additional monitoring or supervising upon CORDOVA to assure he was  
18 not alone with the students, despite the warnings and complaints of his inappropriate conduct.

14. The DISTRICT further fostered and maintained an environment for its students to fall  
15 victim to sexual abuse by its employees, beginning with the configuration of the janitorial closets and  
16 contents contained therein. Examples include but are not limited to the following:

- 17 A. The janitorial closets had doors with no windows making it impossible to oversee  
18 and supervise what was occurring in the rooms at all times. This is especially  
19 concerning, armed with the knowledge that CORDOVA had a history of luring

students into the janitorial closets alone and closing the door.

B. The DISTRICT allowed locks to be on the janitorial closets, which allowed CORDOVA to assure no other students or teachers would walk in while he was sexually abusing the SCHOOL'S students.

C. CORDOVA was allowed to maintain and store "lost and found" items and playground equipment in his janitorial closets, despite instructions by SCHOOL administration to the contrary. Allowing these items to be in the control of CORDOVA, empowered CORDOVA with items to attract and entice the children into his janitorial closet, so that they could be sexually abused.

D. There was a lack of administrative and employee presence in monitoring CORDOVA and his janitorial closets throughout the day when students are potentially alone with CORDOVA, despite the concerns and warning referenced above.

15. Based upon information and belief, DISTRICT neither had in place, nor implemented, a system or procedure for investigating and/or supervising personnel to prevent pre-sexual grooming and/or sexual harassment, molestation, and abuse of the children at its SCHOOL including, but not limited to, PLAINTIFFS.

16. Despite the numerous concerns and warnings (notice) to the DISTRICT by staff and concerned parents about CORDOVA's inappropriate conduct and behavior, the DISTRICT failed to respond. The DISTRICT's failure to properly train its agents/employees who are entrusted with the safety of the children; investigate the reports/concerns; supervise CORDOVA; comply with mandated reporting requirements; remove CORDOVA. All of these complete failures to respond and act by the DISTRICT, despite the clear notice they had of CORDOVA's inappropriate conduct, fostered the situation and enabled the sexual abuse of many little girls over several years.

17. Based upon the multiple warnings and red flags relating to its employee, CORDOVA, the DISTRICT knew, or should have known and/or were put on notice of CORDOVA's past and ongoing sexual abuse of minors and his propensity and disposition to engage in such abuse. Consequently, the DISTRICT knew, or should have known, or with reasonable diligence on behalf of the DISTRICT, should have known, that CORDOVA was/would commit wrongful sexual acts with minors, including PLAINTIFFS. The SCHOOL and DISTRICT agents and employees failed to realize, supervise, investigate, prevent, train, and discover the sexual abuse that was occurring during school hours on the SCHOOL campus. Unfortunately, the staff and administration had all the warnings that would cause a

1 reasonable person to comply with their mandated reporting requirements, however they all chose to turn  
2 a blind eye to the ongoing sexual abuse of their female students that would occur on a daily basis, at the  
3 hands of their own employee, CORDOVA.

4 18. CORDOVA is currently being prosecuted for acts including, but not limited to, the ones  
5 described above.

6 19. PLAINTIFFS allege that they have complied with the notice of claim requirements of the  
7 Tort Claims Act. On or about April 29, 2013, PLAINTIFFS submitted a claim conforming with the  
8 requirements of Government Code section 910.4 to the Risk Management for the DISTRICT.  
9 PLAINTIFF further alleges that, by operation of law, the claim was deemed rejected.

10 **FIRST CAUSE OF ACTION**

11 **GENERAL NEGLIGENCE**  
12 **(As to All Defendants)**

13 20. PLAINTIFFS hereby reallege, and incorporates herein by reference, Paragraphs 1  
14 through 19.

15 21. PLAINTIFFS hereby allege that CORDOVA owed a duty of reasonable care to the  
16 PLAINTIFFS and to conduct himself in a manner which would not cause harm to each of the  
17 PLAINTIFFS.

18 22. PLAINTIFFS further allege that CORDOVA breached this duty to PLAINTIFFS by  
19 engaging in the inappropriate acts including, but not limited to, the sexual abuse of PLAINTIFFS, as  
20 described above in Paragraphs 9, 10 and 11.

21 23. PLAINTIFFS allege that the DISTRICT owed a duty to PLAINTIFFS, who were minor  
22 students at the SCHOOL. The DISTRICT failed to supervise, train, oversee, recognize, protect,  
23 investigate, and prevent the unlawful acts of sexual abuse by its employee, CORDOVA, despite their  
24 active and/or constructive knowledge of his inappropriate conduct and behavior described above in  
25 paragraphs 12 through 16.

26 24. PLAINTIFFS further allege that Defendants, and each of them, breached their duty to  
27 report suspected child abuse to the proper authorities as required by Penal Code section 11164, et seq.

28 25. As a direct and proximate result of Defendants', and each of their conduct and failure to

act, train, supervise, investigate, monitor, oversee, recognize, protect and report, CORDOVA engaged in unlawful acts including, but not limited to, the sexual abuse of each of the PLAINTIFFS.

26. As a result of the DISTRICT's and CORDOVA's breach of the aforementioned duty, each of their conduct and/or lack thereof, was a substantial factor in causing PLAINTIFFS to have suffered significant damage including, but not limited to, medical expenses, pain and suffering, humiliation, embarrassment and emotional distress.

## SECOND CAUSE OF ACTION

### **NEGLIGENT HIRING, SUPERVISION, RETENTION, TRAINING AND INVESTIGATION (As to DISTRICT)**

27. PLAINTIFFS hereby realleges, and incorporates herein by reference, Paragraphs 1 through 26.

28. PLAINTIFFS hereby specifically allege that the DISTRICT owed a duty of reasonable care to supervise and protect the children including, but not limited to, PLAINTIFFS, while on the SCHOOL grounds, during school hours. Furthermore, the DISTRICT's personnel, employees and/or agents also owe the same duty of reasonable care in carrying out the performance of their duties. The DISTRICT, through its employees and/or agents, owe a duty of care to use reasonable measures to protect students from foreseeable injury at the hands of third parties acting negligently, or intentionally.

29. PLAINTIFFS further allege that the DISTRICT, through its employees and/or agents, breached this duty to PLAINTIFFS by hiring and failing to supervise, train, oversee, reprimand, prevent, investigate, terminate, monitor, and failure to report to various law enforcement agencies, and continued to employ CORDOVA when it knew, or should have known, that CORDOVA was a danger to the safety of the children of the DISTRICT, including each of the PLAINTIFFS. The DISTRICT failed to supervise, monitor, reprimand, protect, and furthermore, continued to employ CORDOVA, even after the DISTRICT knew, or should have known, of the inappropriate conduct including, but not limited to, the sexual abuse by CORDOVA to the DISTRICT's students, including each of the PLAINTIFFS.

30. As a result of the DISTRICT's breach of the aforementioned duty, which was a substantial factor of causing each of the PLAINTIFFS to have suffered significant damage including, but not limited to, medical expenses, pain and suffering, humiliation, embarrassment, emotional distress, and other

1 damages according to proof at the time of trial.

2 **THIRD CAUSE OF ACTION**

3 **NEGLIGENCE PER SE**  
4 **Violation of Penal Code Section 11164, et seq.**  
5 **(As to DISTRICT)**

6 31. PLAINTIFFS hereby reallege, and incorporates herein by reference, Paragraphs 1 through 30.

7 32. California's Child Abuse and Neglect Reporting Act (hereinafter referred to as "ACT"),  
8 codified at Penal Code section 11164, et seq., was enacted to protect children from abuse and neglect.  
9 Pursuant to Penal Code section 11165.6, sexual abuse is included in the definition of child abuse. The  
10 ACT requires that mandated reporters report all incidents of suspected child abuse to law enforcement.  
11 The reporting requirement is triggered whenever a mandated reporter, in his or her professional capacity,  
12 or within the scope of his or her employment, observes a child whom the mandated reporter knows, or  
13 reasonably suspects, has been the victim of child abuse. Any mandated reporter who fails to report an  
14 incident of known, or reasonably suspected, child abuse is guilty of a misdemeanor. At all relevant times  
15 mentioned herein, the ACT was in full force and effect.

16 33. At the time of the sexual misconduct/abuse described in this Complaint, PLAINTIFF was  
17 a member of the class of persons the ACT was intended to protect: namely, minor children. Furthermore,  
18 the kind of harm the ACT was intended to prevent, mainly child abuse, is the precise harm that each of  
19 the PLAINTIFFS suffered as a result of the DISTRICT's employees' and agents' failure to abide by the  
20 provisions of the ACT.

21 34. Based upon information and belief, beginning in or about 2012, PLAINTIFFS were  
22 sexually abused by CORDOVA. Employees, administrators and/or agents of the DISTRICT, who are  
23 mandated reporters under the ACT knew, should have known, or reasonably suspected that CORDOVA  
24 was engaged in child abuse of the DISTRICT's female students including, but not limited to, each of the  
25 PLAINTIFFS. Despite the knowledge and/or suspicion, the mandated reporters did not report the  
26 abuse/suspected abuse by CORDOVA to law enforcement. This failure to report is a violation of the  
27 ACT and constitutes negligence per se.

28 35. The DISTRICT owed a duty to each of the students at the SCHOOL, which included the



1 PLAINTIFFS, to abide by the ACT. The DISTRICT, through its employees and agents, breached the  
2 aforementioned duty and violated the ACT by failing to report the abuse/suspected abuse by CORDOVA  
3 to law enforcement.

4 36. As a result of the DISTRICT's breach of the aforementioned duty and violation of the  
5 ACT, the PLAINTIFFS have suffered significant damages including, but not limited to, medical  
6 expenses, pain and suffering, humiliation, embarrassment, emotional distress, and other damages  
7 according to proof at the time of trial.

8 **FOURTH CAUSE OF ACTION**

9 **SEXUAL BATTERY**  
10 **Violation of Civil Code Section 1708.5**  
11 **(As to CORDOVA)**

12 37. Each of the PLAINTIFFS hereby reallege, and incorporates herein by reference,  
13 Paragraphs 1 through 36.

14 38. At all relevant times mentioned herein, Civil Code section 1708.5 was in full force and  
15 effect and binding upon CORDOVA. This section provides that a person who commits a sexual battery  
16 with the intent to cause a harmful or offensive contact with an intimate part of another, and a sexually  
17 offensive contact with that person directly, or indirectly, results.

18 39. CORDOVA violated this section in that he intended to, and did, engage in harmful and/or  
19 offensive contact with the intimate part of each of the PLAINTIFFS who were minors at the time of the  
20 contact. As a direct result of CORDOVA's harmful and/or offensive contact with the intimate part of  
21 each of the PLAINTIFFS, sexually harmful contacts resulted. The harmful and/or offensive contacts  
22 perpetrated by CORDOVA offends a reasonable sense of personal dignity.

23 40. As a result of CORDOVA's violation of Civil Code section 1708.5, the PLAINTIFFS have  
24 suffered, and will continue to suffer, humiliation, embarrassment, emotional distress, mental and physical  
25 pain and anguish, all to her damage in an amount according to proof at trial.

26 41. Pursuant to Civil Code section 1708.5, the PLAINTIFFS are entitled to general damages,  
27 special damages, and punitive damages. Punitive damages are especially warranted against CORDOVA  
28 because his violation of Civil Code section 1708.5 was willful, knowing, and intentional. Furthermore,  
the sexual battery committed against each of the PLAINTIFFS was despicable conduct, done with malice,

1 oppression and/or reckless disregard of the impact on, and harm done to, each of the PLAINTIFFS.

2 **FIFTH CAUSE OF ACTION**

3 **SEXUAL MISCONDUCT/SEXUAL HARASSMENT**

4 **Violation of Civil Code Section 51.9**

5 **(As to CORDOVA)**

6 42. PLAINTIFF hereby realleges, and incorporates herein by reference, Paragraphs 1 through 41.

7 43. At all times herein mentioned, Civil Code section 51.9 was in full force and effect and  
8 binding upon CORDOVA. This section provides that a person is liable for sexual misconduct/sexual  
9 harassment, if there is a business, service, or professional relationship including: (1) that of a teacher  
10 or a relationship which is substantially similar to being a teacher; (2) the defendant has made sexual  
11 advances; (3) there is an inability by the plaintiff to easily terminate the relationship; and (4) the plaintiff  
12 has suffered, or will suffer, economic loss or disadvantage or personal injury included, but not limited  
13 to, emotional distress or the violation of a statutory or constitutional right as a result of the conduct  
14 described above.

15 44. CORDOVA is liable for sexual misconduct/sexual harassment because while in the course  
16 and scope of his employment: (1) CORDOVA was the janitor at the PLAINTIFFS' elementary SCHOOL  
17 that they attended; (2) CORDOVA made sexual advances and engaged in sexual contact and abuse with  
18 each of the PLAINTIFFS; (3) because PLAINTIFFS were minors and CORDOVA was in a position of  
19 authority over each of the PLAINTIFFS, there was an inability by the PLAINTIFFS to terminate the  
20 sexual contact/abuse, as well as inability to recognize the inappropriate sexual abuse that was ongoing;  
21 and (4) the PLAINTIFFS have suffered extensive personal injury including, but not limited to severe  
22 emotional distress, humiliation, embarrassment, as a result of the actions and conduct of CORDOVA.

23 45. As a proximate result of CORDOVA's willful, knowing and intentional sexual  
24 misconduct/sexual harassment of the PLAINTIFFS, they have sustained and continues to sustain,  
25 substantial losses in educational benefits. They have further had to expend monies seeking treatment by  
26 professional therapists.

27 46. As a proximate result of CORDOVA's willful, knowing and intentional sexual  
28 misconduct/sexual harassment of the PLAINTIFFS, they have suffered and continue to suffer,

1 humiliation, emotional distress, mental and physical pain and anguish, all to their damage in a sum  
2 according to proof at trial.

3 47. The PLAINTIFFS are further entitled to attorney's fees pursuant to Civil Code section 51.9  
4 and Civil Code section 52.

5 48. As a further direct and proximate result of CORDOVA's conduct, the PLAINTIFFS have  
6 been compelled to retain the services of counsel to protect and enforce their rights and, therefore, have  
7 incurred and continue to incur legal fees and costs for what they are entitled to have reimbursed, in an  
8 amount to be established at the time of trial.

9 WHEREFORE, each of the PLAINTIFFS pray for damages as follows:

10 1. For special damages consisting of past medical expenses, future medical expenses, all in  
11 an amount according to proof at the time of trial;

12 2. For general damages for past and future pain and suffering, emotional distress, anxiety,  
13 embarrassment, and humiliation, all in an amount according to proof at the time of trial;

14 3. For costs and attorneys' fees where permitted by law, and the awarding of such is  
15 necessary in the interest of justice;

16 4. For punitive damages as to CORDOVA, in an amount according to proof at trial; and

17 5. For such other and further relief as the Court may deem just and proper in the interest of  
18 justice.

19 Dated: July 29, 2013

BARADAT & PABOOJIAN, INC.

20 By: \_\_\_\_\_

21 Warren R. Paboojian  
22 Jason S. Bell  
23 Attorneys for Plaintiffs  
24 J.C. and E.C., minors  
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